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December 4, 2022

Hon. Katherine Polk Failla, U.S.D.J.  
Thurgood Marshall  
United States Courthouse  
40 Foley Square  
New York, NY 10007  
VIA ECF

**MEMO ENDORSED**

**Re: Choinski v. Brown Meadow, Inc. et al.**  
**Docket No.: 22-cv-01058-KPF**

Dear Judge Failla,

I represent Plaintiff in this matter. I am forced to respectfully request that Your Honor indulge Plaintiff and extend Plaintiff's time to file a motion for default judgment (the "Motion") from Monday, December 5, 2022 to Monday, December 12, 2012. It is the second request of this type and the prior request was granted for good cause. There is no prejudice to any party inasmuch as Defendants defaulted.

Your Honor was kind enough to give Plaintiff until December 5, 2022 to file the Motion. However, in the course of my drafting Plaintiff's declaration, I learned that Plaintiff's wife had been very much involved over the years in helping Plaintiff kept contemporaneous records of the amounts that Plaintiff was underpaid by Defendants. Plaintiff and his wife are septuagenarians and Plaintiff, a person of limited means and circumstances, was forced by his financial situation to work for Defendants into his seventies. I believe that his wife's detailed records are important to show that Plaintiff was not only underpaid specific amounts but that he was paid impermissibly late for his work. I have reason to believe that these additional documents and her declaration, when combined with his own, may obviate the need to hold an inquest on the amount of damages and thus conserve judicial resources. Because Plaintiff's wife has no ability to scan and email me the notebooks she kept, she and I will have to meet in person so that I can review them and prepare her declaration. The earliest it can be accomplished is the next weekend when she can be driven to Manhattan by a relative. Consequently, I am forced to seek Your Honor's indulgence and seek an extension of time to file the Motion until Monday, December 12, 2022.

I thank Your Honor for her attention to the above.

Respectfully submitted,

/s/ Robert Wisniewski  
Robert Wisniewski

Application DENIED. The Court understands Plaintiff's request as one that is best suited for an amended complaint, rather than default judgment. Accordingly, the Court grants counsel leave to file an amended complaint by **December 19, 2022**, to include information learned from Plaintiff's wife. Plaintiff must serve the amended complaint on Defendants, and Defendants must reply within fourteen days after service. See Fed. R. Civ. P. 15(a). Should Defendants fail to appear or respond by that time, Plaintiff may move for default.

Dated: December 5, 2022  
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE